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09/961,181	09/24/2001	Takuro Ikeda	1405.1050	7175

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EXAMINER	
CASLER, TRACI	

ART UNIT	PAPER NUMBER
3629	

MAIL DATE	DELIVERY MODE
11/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/961,181	IKEDA ET AL.	
	Examiner	Art Unit	
	Traci L. Casler	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 September 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This action is in response to papers filed on September 4, 2007.

Claims 1, 2, 5-6 and 9-10 have been amended.

Claims 1-11 are pending.

Claims 1-11 are rejected.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant claims "assigning correspondences" for customer information, dialogue content etc. However, the examiner is unable to determine what the applicant deems correspondence. The disclosure merely mimics the claim language of "assigning correspondences" but fails to identify what a correspondence is and is it the same correspondence for all contents and information.

Claim Rejections - 35 USC § 102

> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical

Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-4, and 8-11 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6381744; Automated Survey Kiosk; Nanos et al. Hereinafter referred to as Nanos.

4. As to claims 1-2 and 9-11 Nanos teaches.

storing dialogue scenarios; **(C. 4 l. 52-55) storing said survey for administration)**

assigning correspondences between the dialogue scenarios and destination addresses;

extracting from the dialogue scenarios a dialogue scenario to be performed; **(C. 4 l. 55 sequentially displaying each inquiry in the survey)**

holding a dialogue with a customer following the dialogue scenario; **(C. 4 l. 49 administering the survey)**

acquiring dialogue content from the dialogue;**(C. 4 l. 56 means for receiving survey responses)**

transmitting the dialogue content to the destination addresses corresponding to the dialogue scenario;**(C. means for transmitting surveys to remote locations; C. 7 l. 60-63 reports sent to third parties)**

storing the dialogue content received at the destination addresses; and

outputting the dialogue content at the destination addresses corresponding to the

dialogue scenario. **(C. 7 l. 34-35 warehousing and transferring feedback to the clients).**

5. As to claims 3-4 Nanos teaches storing specific customer information assigned to dialogue content(C. 10 l. 46-54).

6. As to claim 8 Nanos teaches presenting the user with a coupon upon completion of the survey(C. 10 l. 40-43).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6381744; Automated Survey Kiosk; Nanos et al as applied to claims 1-4 and 8-11 above, and further in view of US Patent Publication 20020128898 Dynamically Assigning a survey to a respondent; Smith, JR et al. Hereinafter referred to as Smith.

10. As to claims 5-6 Nanos teaches a system and method of performing consumer surveys(dialogue scenarios) and identifying the merchant or company requesting the survey results. Nanos fails to teach assigning a merchandise identifier with the destination address(company or merchant) and transmitting the content based on the merchandise ID. However, Smith teaches system and method for performing consumer surveys that captures survey results with a unique storage unit and identification that is used storing and transmitting the survey to the appropriate survey storage unit. (Pg. 6 ¶ 117 and the client is able to assign an identification to the survey to maintain consistently when multiple surveys are created. It would have been obvious to one of ordinary skill in the art at the time of invention to combine Smith with Nanos as a way for merchants/companies to specify what product or survey information they are requesting.

11. As to claim 7 Nanos fails to teach billing the destination address(company) for the dialogue content(survey results). However, Smith teaches calculating (determining) the cost for the survey and provided to the client.(Pg. 7 ¶ 113). It would have been obvious to one skilled in the art to combine Smith with Nanos as in any business arena when a service is provided to a company there is a fee or a charge.

Response to Arguments

12. Applicant's arguments filed September 4, 2007 have been fully considered but they are not persuasive.

13. As to applicants response regarding the 112 2nd paragraph for being indefinite with regard to what is meant by a "correspondence". Applicant points to Fig.2 and 3 and Pg. 2 l. 5 to Pg. 2 l. 9. However, these figures and citations make no mention of what a "correspondence" is and what a correspondence actually is, as best understood by the examiner it is merely a record of the survey and the data, ie a log of what is is done in the system.

14. As applicants arguments regarding the prior art rejections of the claims under 35 USC 102 and 103. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

15. The applicant presents a table with simply regurgitates the prior art citations and the exact claim language. The applicant continues to argue that Nanos fails to teach certain limitation of the claimed limitations but sets forth no analysis of how the applicants claim language is different from the prior art. Applicant argues that Nanos fails to teach the assigning of correspondence. As examiner has noted previously it is not clear as to what applicant intends a correspondence to be, as described in applicants noted citations the examiner reads merely logging or keeping a record of surveys completed and the survey data send to company as assigning correspondence.

Therefore when the remote system stores all the information it has then assigned a correspondence. Furthermore, the applicant argues Nanos fails to teach multiple survyes(dialogue scenarios), the examiner notes Nanos teaches the surveys being available in multiple languages, therein comprising multiple surveys scenarios.

16. Applicant further argues that Nanos fails to teach storing and outputting dialogue content at the destination address. The examiner points to Fig 3 Ref. 110 in which show the client office receiving data that is loaded in to customized data warehouse and outputting reports.

Conclusion

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traci L. Casler whose telephone number is 571-272-6809. The examiner can normally be reached on Monday-Thursday 6:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TLC